IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 22142 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THAKAR HARIVADAN RAVISHANKAR & 1 - Petitioner(s)
Versus
NURSHA BAJISHA DIWAN & 1 - Respondent(s)

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Appearance :

MR KIRTIDEV R DAVE for Petitioner(s) : 1 - 2.MR RAHUL K DAVE for Petitioner(s) : 1,
MR AR MAJMUDAR for Respondent(s) : 1 - 2.
MR. L.I.MEHTA for MR NK MAJMUDAR for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 15/12/2006

ORAL JUDGMENT

1. Mr. Kirtidev R. Dave, learned advocate of the petitioners, upon instructions received from the

petitioners, seeks leave to withdraw the petition with a request that appropriate direction for expeditious disposal of Regular Civil Suit no. 123 of 2003 pending for final disposal in the Court of learned Civil Judge (JD), Jambusar, may be issued.

2. Mr. L.I.Mehta, learned advocate for Mr. N.K.Majmudar, learned advocate for the respondents, has no objection if leave as prayed for is granted and also issuing direction to the learned Civil Judge (JD), Jambusar for expeditious disposal of the Suit.

3. Leave as prayed for is granted. Petition stands disposed of as it is withdrawn, with no order as to costs.

4. It is made clear that no observation made by the learned District Judge, Bharuch in his order dated 30.8.2005 rendered in Misc. Civil Appeal no. 25 of 2005 and also order directing both the parties to maintain status quo with regard to the right of way on the suit property, shall be construed as an expression of opinion on the merits of the case, as the said finding is tentative in nature which has no bearing on the final result of the Suit. The learned Civil Judge (JD), Jambusar shall decide the Suit on the basis of the evidence adduced before him strictly in accordance with law uninfluenced by the fact that the learned District Judge, Bharuch has directed both the parties to maintain status quo.

5. On the facts and in the circumstances emerging from the record of the case, the learned Civil Judge (JD), Jambusar is directed to expedite the hearing of the suit and shall dispose of the Regular Civil Suit no. 123 of 2003 on or before 30.4.2007 without fail.

6. With the above observations and directions, rule is discharged.

Direct service permitted.

(A.M.Kapadia,J)

Jayanti*